

# Michigan Law Review

---

Volume 95 | Issue 4

---

1997

## Front Matter

Michigan Law Review

Follow this and additional works at: <https://repository.law.umich.edu/mlr>

---

### Recommended Citation

Michigan Law Review, *Front Matter*, 95 MICH. L. REV. i (1997).

Available at: <https://repository.law.umich.edu/mlr/vol95/iss4/1>

This Front Matter is brought to you for free and open access by the Michigan Law Review at University of Michigan Law School Scholarship Repository. It has been accepted for inclusion in Michigan Law Review by an authorized editor of University of Michigan Law School Scholarship Repository. For more information, please contact [mlaw.repository@umich.edu](mailto:mlaw.repository@umich.edu).

# Michigan Law Review

**VOLUME 95**  
**1996-1997**

The University of Michigan  
Law School

Michigan Law Review  
Ann Arbor, Michigan 48109-1215

# Michigan Law Review

---

Vol. 95, No. 4

February 1997

## CONTENTS

### SYMPOSIUM *Representing Race*

|   |                                |     |
|---|--------------------------------|-----|
| FOREWORD .....  | <i>Frank I. Michelman</i>      | 723 |
| VAMPIRES ANONYMOUS AND CRITICAL<br>RACE PRACTICE .....  | <i>Robert A. Williams, Jr.</i> | 741 |
| BEYOND "SELLOUTS" AND "RACE CARDS":<br>BLACK ATTORNEYS AND THE STRAITJACKET<br>OF LEGAL PRACTICE.....       | <i>Margaret M. Russell</i>     | 766 |
| STRAIGHTJACKETING PROFESSIONALISM:<br>A COMMENT ON RUSSELL.....   | <i>David B. Wilkins</i>        | 795 |
| CRITICAL RACE PRAXIS: RACE THEORY AND<br>POLITICAL LAWYERING PRACTICE IN<br>POST-CIVIL RIGHTS AMERICA ..... | <i>Eric K. Yamamoto</i>        | 821 |
| LEGAL NARRATIVES, THERAPEUTIC NARRATIVES:<br>THE INVISIBILITY AND OMNIPRESENCE OF<br>RACE AND GENDER .....  | <i>Leslie G. Espinoza</i>      | 901 |
| UNSHACKLING BLACK MOTHERHOOD .....  | <i>Dorothy E. Roberts</i>      | 938 |

|   |                             |      |
|---|-----------------------------|------|
| REPRESENTING RACE OUTSIDE OF EXPLICITLY<br>RACIALIZED CONTEXTS .....  | <i>Naomi R. Cahn</i>        | 965  |
| THE UNDERREPRESENTATION OF MINORITIES IN<br>THE LEGAL PROFESSION: A CRITICAL<br>RACE THEORIST'S PERSPECTIVE ..... | <i>Alex M. Johnson, Jr.</i> | 1005 |
| LYNCHING ETHICS: TOWARD A THEORY OF<br>RACIALIZED DEFENSES .....  | <i>Anthony V. Alfieri</i>   | 1063 |
| RODRIGO'S THIRTEENTH CHRONICLE: LEGAL<br>FORMALISM AND LAW'S DISCONTENTS .....                                    | <i>Richard Delgado</i>      | 1105 |
| AFTERWORD .....   | <i>Angela P. Harris</i>     | 1150 |

## RECENT BOOKS

|                      |  |      |
|----------------------|--|------|
| BOOKS RECEIVED ..... |  | 1159 |
|----------------------|--|------|

---

Copyright © 1997 by the Michigan Law Review Association. Except where otherwise expressly provided, the author of each article and Note in this issue has granted permission for copies of that article or Note to be made for educational use, provided that (i) copies are distributed at or below cost; (ii) the author and the *Michigan Law Review* are identified; (iii) prior written notice of the use is given to the Michigan Law Review Association; and (iv) proper notice of copyright is affixed to each copy.

The design on the cover is taken from an etching of The University of Michigan Legal Research Building.

*Michigan Law Review* (ISSN 0026-2234) is published monthly in October, November, December, February, March, May, June, and August. Subscriptions: United States, \$50 per year in advance, eight numbers; Foreign, \$60. Editorial and Business Offices: Hutchins Hall, Ann Arbor, Michigan 48109-1215; 313/764-0542 (Editorial); 313/763-5870 (Business); 313/647-5817 (Fax). Periodicals postage paid at Ann Arbor, Michigan, and additional mailing offices. POSTMASTER: send address changes to Michigan Law Review, Hutchins Hall, Ann Arbor, Michigan 48109-1215.

Printed at Joe Christensen, Inc., Lincoln, Nebraska 68521.

Recent Volumes: Single Issues \$8, Book Review \$14, and Special Issues \$10, postpaid, at Editorial and Business Offices.

Volumes 1 through 91, as well as single issues in those volumes, are available in printed and microform from William S. Hein & Co., Inc., 1285 Main Street, Buffalo, New York 14209.

Because back stock of the *Review* is turned over to a dealer, back numbers are available to the *Review* for a short time only. We must therefore ask that subscribers report the nonreceipt of copies within six months of the mailing date.

We gladly consider unsolicited manuscripts for publication. Citations in manuscripts should follow the form prescribed in *The Bluebook: A Uniform System of Citation* (16th ed. 1996) and *The Chicago Manual of Style* (14th ed. 1993). We regret that we can return only those manuscripts for which we receive postage and handling fees of \$3.50 for first-class and \$1.50 for special fourth-class mail.

# UNIVERSITY OF MICHIGAN LAW SCHOOL

Fall 1996

## Administrative Officers

HOMER A. NEAL, M.S., Ph.D., *Interim President of the University*  
J. BERNARD MACHEN, D.D.S., Ph.D., *Provost and Executive Vice President for Academic Affairs*  
JEFFREY S. LEHMAN, A.B., J.D., M.P.P., *Dean*  
KENT D. SYVERUD, B.S.F.S., J.D., M.A., *Associate Dean for Academic Affairs*  
SUSAN M. EKLUND, A.B., J.D., *Associate Dean for Student Affairs*  
SUELLYN SCARNECCHIA, B.A., J.D., *Associate Dean for Clinical Affairs*  
VIRGINIA B. GORDAN, B.A., J.D., *Assistant Dean for International Programs*  
DENNIS J. SHIELDS, B.A., J.D., *Assistant Dean and Admissions Officer*

## Professors Emeriti of Law

FRANCIS A. ALLEN, A.B., LL.B., J.D., LL.D.,  
*Edson R. Sunderland Professor of Law*  
OLIN L. BROWDER, A.B., LL.B., S.J.D.,  
*James V. Campbell Professor of Law*  
ALFRED F. CONARD, A.B., LL.B., LL.M., J.S.D., LL.D.,  
*Henry M. Butzel Professor of Law*  
LUKE K. COOPERRIDER, B.S., J.D.  
SAMUEL D. ESTEP, A.B., J.D.  
ROBBEN W. FLEMING, B.A., LL.B., LL.D.  
WHITMORE GRAY, A.B., J.D., LL.D.  
JEROLD H. ISRAEL, B.B.A., LL.B.,  
*Alene and Allan F. Smith Professor of Law*  
CHARLES W. JOINER, A.B., J.D.  
FRANK R. KENNEDY, A.B., LL.B., J.S.D.,  
*Thomas M. Cooley Professor of Law*  
MARVIN L. NIEHUSS, A.B., LL.B.  
WILLIAM J. PIERCE, A.B., J.D.  
ROY F. PROFFITT, B.S., J.D., LL.M.  
JOHN W. REED, A.B., LL.B., LL.M., J.S.D.,  
*Thomas M. Cooley Professor of Law*  
RUSSELL A. SMITH, A.B., J.D.  
ERIC STEIN, J.U.D., J.D., Dr.H.C., Dr.H.C.,  
*Hessel E. Yntema Professor of Law*  
PETER O. STEINER, A.B., M.A., Ph.D.  
ANDREW S. WATSON, B.S., M.D., M.S. in Med.

## Professors of Law

T. ALEXANDER ALEINIKOFF,\*\* B.A., J.D.  
LAYMAN E. ALLEN, A.B., M.P.A., LL.B.  
JOSE E. ALVAREZ, B.A., B.A./M.A., J.D.  
SUSAN T. BART,\* B.A., J.D.  
WILLIAM J. BOGAARD,\* B.S., J.D.  
ANDREW P. BUCHSBAUM,† A.B., J.D.  
DAVID L. CHAMBERS,\*\* A.B., LL.B.,  
*Wade H. McCree Professor of Law*  
EDWARD H. COOPER, A.B., LL.B.,  
*Thomas M. Cooley Professor of Law*  
DONALD N. DUQUETTE,†† B.A., J.D.  
REBECCA S. EISENBERG, B.A., J.D.  
PHOEBE C. ELLSWORTH, A.B., Ph.D.,  
*Kirkland & Ellis Professor of Law*  
MERRITT B. FOX, B.A., J.D., Ph.D.  
RICHARD D. FRIEDMAN, B.A., J.D., D.Phil.  
BRUCE W. FRIER, B.A., Ph.D.,  
*Henry King Ransom Professor of Law*  
DEBORAH A. GEIER,\* A.B., J.D.  
THOMAS A. GREEN, B.A., Ph.D., J.D.,  
*John Philip Dawson Professor of Law*  
SAMUEL R. GROSS, A.B., J.D.  
DONALD J. HERZOG, A.B., A.M., Ph.D.  
LAURA J. HINES,\* B.A., J.D.  
JOHN H. JACKSON, B.A., J.D.,  
*Hessel E. Yntema Professor of Law*  
WILLIAM R. JENTES,\* A.B., J.D.  
DOUGLAS A. KAHN,\*\* B.A., J.D.,  
*Paul G. Kauper Professor of Law*  
YALE KAMISAR, A.B., LL.B., LL.D.,  
*Clarence Darrow Distinguished University Professor of Law*  
THOMAS E. KAUPER, A.B., J.D.,  
*Henry M. Butzel Professor of Law*  
JAMES E. KRIER,\*\* B.S., J.D.,  
*Earl Warren DeLano Professor of Law*  
JEFFREY S. LEHMAN, A.B., J.D., M.P.P.  
RICHARD O. LEMPert, A.B., J.D., Ph.D.,  
*Francis A. Allen Professor of Law*  
JEFFREY S. LISS,\* A.B., A.M., J.D.  
CATHARINE A. MACKINNON,\*\* B.A., J.D., Ph.D.  
WILLIAM I. MILLER, B.A., Ph.D., J.D.  
JEFFREY H. MIRO,\* B.A., J.D., LL.M.  
LINDA S. MULLENIX,\* B.A., M.Phil., Ph.D., J.D.  
SALLYANNE PAYTON, A.B., LL.B.  
ERNEST-ULRICH PETERSMANN,\* Dr. Jur. Utr.,  
*Dean's Distinguished Visiting International Scholar*  
RICHARD H. PILDES, A.B., J.D.  
BEVERLEY J. POOLEY, B.A., LL.B., LL.M., S.J.D.  
RADHIKA D. RAO,\* A.B., J.D.  
DONALD H. REGAN, A.B., LL.B., B.Phil., Ph.D.,  
*William W. Bishop, Jr. Professor of Law*



|  |   |
|--|---|
| MATHIAS W. REIMANN,** DR. IUR., LL.M.  | PHILIP SOPER, B.A., M.A., J.D., PH.D.,<br><i>James V. Campbell Professor of Law</i>       |
| PAUL D. REINGOLD,†† B.A., J.D.   | KENT D. SYVERUD, B.S.F.S., J.D., M.A.   |
| WILLIAM M. RICHMAN,* B.A., J.D.  | JOSEPH VINING,** B.A., M.A., J.D.,<br><i>Harry Burns Hutchins Professor of Law</i>        |
| MARK D. ROSENBAUM, B.A., J.D.  | LAWRENCE W. WAGGONER, B.B.A., J.D.,<br>D.Phil.,<br><i>Lewis M. Simes Professor of Law</i> |
| THEODORE J. ST. ANTOINE, A.B., J.D.,<br><i>James E. and Sarah A. Degan<br/>Professor of Law</i>        | PETER K. WESTEN, B.A., J.D.,<br><i>Frank G. Millard Professor of Law</i>                  |
| TERRANCE SANDALOW, A.B., J.D.,<br><i>Edson R. Sunderland Professor of Law</i>                          | JAMES BOYD WHITE, A.B., A.M., LL.B.,<br><i>L. Hart Wright Professor of Law</i>            |
| SUELLYN SCARNECCHIA, B.A., J.D.  | JAMES J. WHITE, B.A., J.D.,<br><i>Robert A. Sullivan Professor of Law</i>                 |
| CARL E. SCHNEIDER, A.B., J.D.  | CHRISTINA B. WHITMAN,** A.B., M.A., J.D.  |
| STANLEY S. SCHWARTZ,* B.A., J.D.   |   |
| A.W. BRIAN SIMPSON,** B.A., M.A., D.C.L.,<br><i>Charles F. and Edith J. Clyne Professor<br/>of Law</i> |   |

*Associate Professor of Law*

MARTIN J. STONE,\* B.A., J.D.

*Assistant Professors of Law*

|   |  |
|---|--|
| ERIC A. BILSKY,†† B.A., M.A., J.D.          | PETER J. HAMMER, B.S., B.A., J.D., PH.D. |
| RENEE BIRNBAUM,†† B.A., J.D.                | MICHAEL A. HELLER, A.B., J.D.            |
| HOWARD J. BROMBERG,†† B.A., J.D.,<br>J.S.M. | RODERICK M. HILLS, JR., B.A., J.D.       |
| LORRAY S.C. BROWN,†† B.A., J.D.             | LANCE R. JONES,†† A.B., J.D.             |
| SHERMAN J. CLARK, B.S., J.D.                | ROCHELLE E. LENTO,†† B.A., J.D.          |
| LARRY J. COHEN,†† B.A., M.A., PH.D., J.D.   | KYLE D. LOGUE, B.A., J.D.                |
| STEVEN P. CROLEY, A.B., J.D., M.A.          | ANDREA D. LYON,†† B.A., J.D.             |
| CAMERON DAVIS,†† B.A., J.D.                 | DEBORAH C. MALAMUD, B.A., J.D.           |
| WARREN T. DEAN,†† B.A., M.S., M.A.          | NICHOLAS J. RINE,†† B.A., J.D.           |
| HEIDI L. FELDMAN, B.A., J.D., PH.D.         | THOMAS H. SEYMOUR,†† B.A., M.A., J.D.    |
| PHILIP M. FROST,† B.A., J.D.                | THEODORE M. SHAW,** B.A., J.D.           |
| RICHARD B. GINSBERG, B.A., J.D.             | CAROLYN R. SPENCER,†† A.B., J.D.         |
|   | GRACE C. TONNER,†† B.A., J.D.            |

*Instructor in Law*

SONIA MATEU SUTER,\* B.A., M.S., J.D.

*Lecturers in Law*

|                                       |                                 |
|---------------------------------------|---------------------------------|
| JEFFREY D. DILLMAN,† B.A., J.D.       | CYRIL MOSCOW,† A.B., J.D.       |
| RICHARD B. DRUBEL,† A.B., J.D., LL.M. | MITCHELL A. SEIDER,† A.B., J.D. |
| SUSAN R. GZESH,† A.B., J.D.           | MYRON M. SHEINFELD,† B.A., J.D. |
| CAROL K. HOLLENSHEAD,† A.B., J.D.     |                                 |

† Adjunct

†† Clinical

\* Visiting

\*\* On Leave

# Michigan Law Review

Vol. 95, No. 4

February 1997

## EDITORIAL BOARD

### *Editor-in-Chief*

CHRISTOPHER M. TAYLOR, *of Illinois*

### *Managing Editor*

MICHAEL D. LEFFEL, *of Wisconsin*

### *Book Review Editors*

JOHN C. FORD, *of Michigan*

SARAH E. IDELSON, *of Massachusetts*

### *Executive Article Editor*

WENDY J. SCHECHTER, *of New Jersey*

### *Executive Note Editor*

ALEX ROMAIN, *of Massachusetts*

### *Executive Editors*

SILVIA J. HANSELL, *of South Carolina*

CHRISTOPHER L. SAGERS, *of Iowa*

JEREMY D. SPECTOR, *of Pennsylvania*

### *Article Editors*

RICK A. BIRSCHBACH, *of Michigan*

ERIC J. HECKER, *of California*

DAVID S. MENDEL, *of New York*

STEVEN D. SEEGER, *of Minnesota*

### *Note Editors*

JANE ECKELS, *of Vermont*

JEFFREY L. FISHER, *of Kansas*

JORDAN B. HANSELL, *of Iowa*

JASON J. KILBORN, *of Iowa*

TIMOTHY R. MACDONALD, *of Kansas*

ANGELA I. ONWUACHI-WILLIG, *of Texas*

## *Contributing Editors*

CHAD G. ASARCH, *of Colorado*

J. PATTERSON BRUMBAUGH, *of Florida*

JENNIFER W. CHALOEMTIARANA, *of Texas*

SHANNON E. CONATY, *of Connecticut*

\*TERESA V. FLEMING, *of Michigan*

\*SARAH G. GINSBURG, *of New Mexico*

\*SHANNON C. JONES, *of Maine*

RUDOLPH M. KAMMERER, *of New York*

ANDREW B. KAY, *of New York*

JOHN D. KING, *of Minnesota*

JONATHAN A. KULISH, *of Michigan*

STEPHEN M. KUPERBERG, *of Michigan*

STEVEN G. LAMBERT, *of California*

TODD LEBOWITZ, *of Florida*

\*JASON M. LEVIEN, *of New York*

DAVID A. MCCREEDY, *of Michigan*

DARIUS J. MEHRABAN, *of Michigan*

DAVID I. PAULSON, *of Massachusetts*

TIMOTHY M. PINTO, *of New York*

IAN J. PLANT, *of New York*

JON M. POWERS, *of Michigan*

JULIE C. RODRIGUEZ, *of California*

TIM J. SCHMUCKAL, *of Michigan*

ADAM H. SHAH, *of New York*

CHAD A. SKINNER, *of Georgia*

AUBRY D. SMITH, *of Pennsylvania*

JOEL S. SMITH, *of Michigan*

DANIEL L. STANLEY, *of California*

## *Associate Editors*

TODD S. AAGAARD, *of California*

ANTHONY S. BAISH, *of Iowa*

ELIN M. BRENNER, *of Ohio*

MICHAEL T. CAHILL, *of New Jersey*

TUNG M. CHAN, *of Michigan*

CHRISTINE L. COONEY, *of Minnesota*

SCOTT L. DARLING, *of California*

MICHAEL B. FISCH, *of Washington, D.C.*

GILLIAN N. FLORY, *of New York*

ANDREA R. FREUDENBERGER, *of Maryland*

MARK R. GORDON, *of Michigan*

JOHN J. GRIGGS, *of Maryland*

ERIN C. HAIROPOULOS, *of California*

MATTHEW A. HAMERMESH, *of Michigan*

JOEL B. KALODNER, *of Massachusetts*

SHARAD S. KHANDLWAL, *of Texas*

STEPHAN E. KLEIN, *of Maryland*

BRENT D. KNIGHT, *of Michigan*

RYAN C. LARRENAGA, *of Massachusetts*

DANIEL E. LAYTIN, *of Illinois*

ELISA S. LEE, *of Michigan*

JOSHUA LIFTON, *of Pennsylvania*

JOELLE C. LUEDTKE, *of Illinois*

ROBERT J. LUNDMAN, *of Ohio*

ANN L. MCGUIRE, *of California*

MARY T. MITCHELL, *of Vermont*

USMAN MOHAMMAD, *of North Carolina*

SUSAN E. MORTENSEN, *of Wyoming*

JAMES E. MYERS, JR., *of Georgia*

TODD R. PLOTNER, *of Illinois*

SCOTT D. POMFRET, *of Massachusetts*

MIREILLE A. RAOUL, *of Illinois*

BRIAN P. RIGONAN, *of Michigan*

TYLER B. ROBINSON, *of Massachusetts*

E. MICHAEL ROSSMAN, *of Ohio*

BRADLEY B. ROUNSAVILLE, *of Mississippi*

KEVIN V. RUDDY, *of Massachusetts*

JASON D. SANDERS, *of New York*

BRIAN A. SELVAN, *of California*

ILENE J. STRAUSS, *of New York*

SHARAN K. SURI, *of Michigan*

PHILLANDAS T. THOMPSON, *of Mississippi*

ELANA TYRANGIEL, *of Maryland*

BRYAN R. WALTERS, *of Michigan*

ROBERT C. WEISZ, *of New York*

ANDREW W. WORSECK, *of Missouri*

AMY J. YANOFF, *of Maryland*

## *BUSINESS MANAGER*

Dorothy A. Kelly

## *EDITORIAL ASSISTANT*

Deborah M. Hartranft

\* Article Review Board